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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,351	01/22/2004	Craig Ullman	559442600207	3432
43997	7590	01/03/2005	EXAMINER	
OPTV/MOFO C/O MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD, SUITE 300 MCLEAN, VA 22102			VU, VIET DUY	
		ART UNIT		PAPER NUMBER
		2154		

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>
	10/761,351	ULLMAN ET AL.
	<b>Examin r</b>	<b>Art Unit</b>
	Viet Vu	2154

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 July 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) See Continuation Sheet is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) See Continuation Sheet is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/12/04; 11/24/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

**Continuation of Disposition of Claims:** Claims pending in the application are 1,2,4,8,11,15,24,30,57,64,67,71,80,86,87,113,114,116,122,123,127,136,142,143,169-174,180-183 and 187-189.

**Continuation of Disposition of Claims:** Claims rejected are 1,2, 4, 8, 11, 15, 24, 30, 57, 64, 67, 71, 80, 86-87, 113-114, 116, 122-123, 127, 136, 142-143, 169-174, 180-183 and 187-189.

**DETAILED ACTION**

1. An apparent typo error is found in the preliminary amendment filed 7/27/04 in which claims 124-127 were indicated as canceled claims while an amended claim 127 was also provided. The examiner assumes that only claims 124-126 are canceled. Applicant is requested to confirm this discrepancy.

**Art Rejections:**

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103 and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2154

4. Claims 1-2, 4, 8, 11, 15, 24, 30, 57, 64, 67, 71, 80, 86-87, 113-114, 116, 122-123, 127, 136, 142-143, 169-174, 180-183 and 187-189 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Schein, U.S. pat. No. 6,002,394.

Per claims 1, 8, 11 and 24, Schein discloses a system and method for providing broadcast programming and online services to user comprising:

- a) a database for providing program schedule data and/or addresses (links) for identifying online information sources (see col 13, lines 58-66 and col 18, lines 20-43),
- b) a transmitter (24, fig. 1) for transmitting broadcast program, program schedule data and/or addresses directly to the user via a transmission medium including radio, satellite, cable, fiber optics, etc., (col 5, lines 45-65 and col 12, lines 61-64),
- c) a receiver for extracting the schedule data and addresses from the signal and using the extracted address to retrieve information from the online service provider, e.g., advertisement, information for a product/artist, live chats, surveys, and on-line ordering, etc., for displaying to user at predetermined time (see col 9, lines 29-37, col 14, lines 18-67 and col 20, lines 18-63).

Art Unit: 2154

Schein does not explicitly show a signal encoder for combining the schedule data and/or addresses with the broadcast program.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any conventional signal encoder in Schein because it would have enabled transmitting the schedule data and/or addresses together with the broadcast program, e.g., using vertical blanking intervals (VBI).

Per claim 2, Schein does not teach providing the transmitter at a web-hosting site.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the transmitter at a web-hosting site because it would have enabled the system to coordinate the broadcast program and online information sources more easily.

Per claims 4, 15 and 30, it is noted that Schein's teachings are applicable to all known types of broadcast programming and online data services.

Claims 57, 64, 67, 71, 80, 86-87, 113-114, 116, 122-123, 127, 136, 142-143, 169-174, 180-183 and 187-189 are similar in scope than that of claims 1-2, 4, 8, 11, 15, 24 and 30 and hence are rejected for the same rationale set forth above.

**Conclusion:**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



VIET D. VU  
PRIMARY EXAMINER

Art Unit 2154  
12/23/04